

Application No. 10/552,841  
Reply to Office Action dated 07/14/2010

### REMARKS

Reconsideration is requested in view of the above amendments and the following remarks. Claim 27 has been revised editorially. Support for the revisions can be found at, e.g., Figs. 15A-D, among other places. New independent claim 28 has been added. Support for new claim 28 can be found in, e.g., Figs. 17-32D, among other places. Claims 1-28 are pending in the application.

#### Claim Rejections 35 USC § 112

Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Applicants respectfully traverse this rejection. Claim 27 has been revised editorially, rendering the rejection moot. Applicants are not conceding the correctness of the rejection. Withdrawal of the rejection is respectfully requested.

#### Claim Rejections-35 USC § 102

Claims 1-2, 6-10, 12-19, 21-22, 24-26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by List (U.S. Published Patent Application No. 2003/0028126).

Claim 1 requires a movement conversion means for converting a reciprocal movement of a first member into a reciprocal movement of a second member in a manner such that a directional change of movement of the second member from a lancing direction to a retreating direction is performed during a one-way stroke of the first member in one of the lancing direction and the retreating direction. This arrangement causes the directional change of movement of the second member from a lancing direction to a retreating direction during the one-way stroke of the first member and as a result, enhances the operability of the lancing apparatus (see, e.g., page 6, lines 5-8 of the specification, among other places).

Initially, Applicants note that the discussion I paragraphs 8 and 10 on pages 15-16 of the Office Action fails to address the "conversion means" of claim 1, which requires an analysis under 35 USC 112, paragraph 6. Thus, the rejection has failed to consider the features of claim 1.

Moreover, the rejection fails to interpret List properly. List in fact fails to disclose a movement conversion means for converting a reciprocal movement of a first member into a reciprocal movement of a second member in a manner such that a directional change of movement of the second member from a lancing direction to a retreating direction is performed

Application No. 10/552,841

Reply to Office Action dated 07/14/2010

during a one-way stroke of the first member in one of the lancing direction and the retreating direction, as required by claim 1. Instead, List merely discusses a bearing part 20, a lancet holder 4, and a lancet side lever 13 and a drive side lever 14 that connect the bearing part 20 and the lancet holder 4 (see List, paragraphs [0030]-[0031] and Fig. 1).

As clearly shown in Fig. 1 of List, during the cocking movement phase, the freedom of movement of a lancet 3 is limited in the puncturing direction by a stop 25 of a trigger 26. The movement from (a) to (b) has the effect of shifting the bearing part 20 against the force of a pressure spring 29 in the direction opposite to the puncturing direction. During the further movement towards position (c) the pressure spring 29 relaxes, and at the end of this movement the lancet drive 10 is in the cocked state (movement position (c)). For triggering the puncturing movement, the trigger 26 is pulled out of the movement path of the lancet holder 4, so that the lancet drive, driven by the drive force of a drive element 11 moves from position (c) via position (d) (maximum puncturing depth) and further to the initial position (a). During this movement the tip 8 of the lancet 3 protrudes from an outlet opening 23 (only shown at the movement positions (c) and (d)). The outlet opening 23 is surrounded by a contact surface 27 against which the body part from which blood is to be withdrawn is pressed during the use of the device. During the puncturing movement phase the bearing part 20 should be in a defined position in order to guarantee an exactly reproducible puncturing depth (see also, List, paragraphs [0032]-[0037]).

As shown in Fig. 1 of List, in position (d), the right side of the bearing part 20 abuts the stop 28, which prevents the bearing part 20 from moving further toward the lancet holder 4. It is the movement of levels 13 and 14 from the cocked position in position (c) to the straight position in position (d), instead of a forward movement of the bearing part 20, pushes the lancet holder 4 further in a lancing direction. The lancet holder 4 retreats due to a pulling force caused by the cocking of the levels 13, 14, but not a movement of the bearing part 20 in a lancing direction or a retreating direction. The bearing part 20 remains in this position abutting the stop 28 when the blood withdrawal system 1 moves from position (d) to position (a). That is, the bearing part 20 is in neither a one-way stroke in a lancing direction nor a one-way stroke in a retreating direction, when the lancet holder 4 experiences a directional change of movement from position (d) to position (a) in List.

Application No. 10/552,841  
Reply to Office Action dated 07/14/2010

For at least these reasons, claim 1 is patentable over List. Claims 2, 6-10, 12-19, 21-22 and 24-26 depend ultimately from claim 1 and are patentable along with claim 1 and need not be separately distinguished at this time.

Claim 27 requires a movement conversion mechanism including a stationary pin held at a fixed position, a first link arm connected to the first member and to the stationary pin for pivoting about the stationary pin, and a second link arm connected to the first link arm and to the second member for pivoting about the stationary pin, where an angle is formed between the first and second link arms in a pivoting direction of the first and second link arms about the stationary pin. List fails to disclose the stationary pin as required by claim 27. Nor does List disclose an angle formed between first and second link arms in a pivoting direction of the first and second link arms about the stationary pin, as required by claim 27. Instead, List merely discusses a plural lever coupling mechanism 12 including a lancet side lever 13 and a drive side lever 14 that

are connected to each other by a first swivel joint 16 (see List, paragraphs [0030]-[0031] and Fig. 1). Fig. 1 of List clearly shows that the swivel joint 16 moves between positions (a)-(d) and does not remain stationary. For at least these reasons, claim 27 is patentable over List.

Reconsideration and withdrawal of the rejection are respectfully requested. Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claims. Claims 1-4, 6-11, 14-18, 20 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Garthe et al. (U.S. Published Patent Application No. 2003/0225429). Applicants respectfully traverse this rejection.

Likewise, Garthe et al. fail to disclose a movement conversion means for converting a reciprocal movement of a first member into a reciprocal movement of a second member in a manner such that a directional change of movement of the second member from a lancing direction to a retreating direction is performed during a one-way stroke of the first member in one of the lancing direction and the retreating direction, as required by claim 1. Instead, Garthe et al. merely discuss a cylindrical mass 60 and a lancet holder 40 (see Garthe et al., paragraphs [0031]-[0032] and Fig. 4).

In fact, as clearly shown in Fig. 4 of Garthe et al., the movement of the cylindrical mass 60 and the lancet holder 40 are both caused by the rotary movement of the guide sleeve 51. The cylindrical mass is used as an impulse weight that "exerts an impulse on the housing in the direction of the contact surface" (see Garthe et al., paragraph [0031]), but is not converted to the

Application No. 10/552,841  
Reply to Office Action dated 07/14/2010

movement of the lancet holder 40. The movement of the lancet holder 40 is caused by the rotary movement of the guide sleeve 51 which is in turn caused by the restoration force of the spring 50 "when the spring relaxes." Garthe et al. are silent as to a movement conversion means for converting a reciprocal movement of a first member into a reciprocal movement of a second member in a manner such that a directional change of movement of the second member from a lancing direction to a retreating direction is performed during a one-way stroke of the first member in one of the lancing direction and the retreating direction, as required by claim 1.

For at least these reasons, claim 1 is patentable over List. Claims 2-4, 6-11, 14-18, 20 and 24 depend ultimately from claim 1 and are patentable along with claim 1 and need not be separately distinguished at this time. Reconsideration and withdrawal of the rejection are respectfully requested. Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claims.

Claim Rejections-35 USC § 103

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garthe et al. (U.S. Published Patent Application No. 2003/0225429). Applicants respectfully traverse this rejection. Claim 5 depends from claim 1 and is patentable over Garthe et al. for at least the same reasons discussed above regarding claims 1-4, 6-11, 14-18, 20 and 24 1-3, 5, 8, 12 and 14. Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claim.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over List (U.S. Published Patent Application No. 2003/0028126). Applicants respectfully traverse this rejection. Claim 23 depends from claim 1 and is patentable over List for at least the same reasons discussed above regarding claims 1-2, 6-10, 12-19, 21-22 and 24-26. Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claim.

Applicants submit that the features of new independent claim 28, for example, a movement conversion mechanism including a stationary pin held at a fixed position, and a link member supported on the stationary pin for pivoting about the stationary pin, wherein the link member includes a first arm carrying a first moveable pin connected to the first member, and a second arm carrying a second movable pin connected to the second member, and wherein the first arm are connected to the second arm at an angle that is defined as an angle between the first and the second arms in a pivoting direction of the link member about the stationary pin, where

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Application No. 10/552,841  
Reply to Office Action dated 07/14/2010

the angle is invariable regardless of positions of the first and second members, are not seen in or suggested by the references of record.

In view of the above, favorable reconsideration in the form of a notice of allowance is respectfully requested. Any questions regarding this communication can be directed to the undersigned attorney, Douglas P. Mueller, Reg. No. 30,300, at (612) 455-3804.



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